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10/073,707	02/11/2002	Lucas Jacobus Franciscus Geurts	NL 010083	4393

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EXAMINER

SHINGLES, KRISTIE D

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,707

Applicant(s)

GEURTS, LUCAS JACOBUS
FRANCISCUS

Examiner

Kristie Shingles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-29 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 11 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/02-9/03.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-29 are pending.

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. EPO 01200476.8, filed on 2/12/2001.

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on 4/29/2002, 7/11/2002 and 9/8/2003 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the Office. Initialed and dated copies of Applicant's 1449 IDS forms, are attached to the instant Office action.

Claim Objections

3. Claim 1, 2, 15 and 28 are objected to because of the following misspelling and punctuation informalities:

- a. Regarding claims 1, 15 and 28—characterised—should read, characterized.
- b. Regarding claim 2, missing punctuation at the end of the claim.

Appropriate correction is required for all instances of these informalities.

Claim Rejections - 35 USC § 112, second paragraph

4. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims incorporate reference numerals from the drawings into the claim language therefor, claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that they fail to point out what is included or excluded by the claim language, due to the inclusion of reference numerals in the claims. These claims are omnibus type claims. Correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by *Kamath et al* (USPN 6,754,696).

a. Per claim 1, *Kamath et al* teach a method for outputting audio-visual signals on a client system, including:

- selecting (I) a selected input from at least one local input (12, 12', 12'', 18) and at least one network input (11) [col.1 line 66-col.2 line 22, col.12 lines 11-56];
- if said network input (11) is selected as said selected input: receiving (II) network signal data representing said audio-visual signals at said network input [col.12 lines 11-67, col.14 lines 1-10]; outputting (III) at an output (15) said audio-visual signals in a for humans perceptible form [col.2 lines 3-22, col.14 lines 1-10]; and
- if said local input (12, 12', 12'', 18) is selected as said selected input: selecting (IV) from a local signal database local signal data representing said audio-visual signals [col.5 lines 39-57, col.13 lines 37-51]; outputting (III) at said output (15) said audio-visual signals in a for humans perceptible form [col.5 lines 45-57, col.12 lines 57-62, col.13 lines 5-67];
- characterized in that, said step of selecting (I) a selected input is performed in an automated manner based on at least one predetermined criterion [col.2 lines 3-22, col.11 line 30-col.12 line 62, col.13 lines 5-36; retrieval or update of data is based upon the size of the object and the local available memory].

b. **Claim 15** contains limitations that are substantially equivalent to claim 1 and is therefore rejected under the same basis.

c. **Per claim 2, Kamath et al** teach the method as is claimed in claim 1, wherein at least one of said at least one predetermined criterion is based on a property of said local signal data [col.12 lines 15-21, col.13 lines 5-36].

d. **Claim 16** is substantially similar to claim 2 and therefore is rejected under the same basis.

e. **Per claim 3, Kamath et al** teach the method as is claimed in claim 2, wherein if said local input is selected said predetermined criterion is based on a property of said audio-visual signals being outputted [col.2 lines 2-12, col.7 lines 23-37, col.12 lines 2-6 and 11-21, col.13 lines 5-67].

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f. **Claim 17** is substantially similar to claim 3 and is therefore rejected under the same basis.

g. **Per claim 4, *Kamath et al*** teach the method as is claimed in claim 1, wherein at least one of said at least one predetermined criterion is based on a predetermined relation between a parameter related to the amount of transmitted local signal data and a parameter related to the amount of transmitted network signal data [col.7 lines 23-37, col.12 line 2-col.13 line 67, col.14 lines 1-10].

h. **Claim 18** is substantially similar to claim 4 and is therefore rejected under the same basis.

i. **Per claim 8, *Kamath et al*** teach the method as is claimed in claim 1, wherein if said local input (12, 12', 12", 18) is selected as said selected input further said receiving of said network signal data is performed simultaneously and said network signal data is stored in a buffer memory means (17) as buffered data [col.2 lines 13-22, col.5 lines 2-38, col.12 lines 11-62, col.13 line 23-col.14 line 10, col.30 lines 26-33].

j. **Claim 22** is substantially similar to claim 8 and is therefore rejected under the same basis.

k. **Per claim 9, *Kamath et al*** teach the method as is claimed in claim 8, wherein a second step of selecting (I) a selected input is performed after said local input (12, 12', 12", 18) is selected and if in said second step of selecting (I), said network input (11) is selected as said selected input said buffered data is used (IX) for providing network signal data [col.2 lines 13-22, col.5 lines 2-38, col.12 lines 11-62, col.13 line 23-col.14 line 10, col.30 lines 26-33].

l. **Claim 23** is substantially similar to claim 9 and is therefore rejected under the same basis.

m. **Per claim 10**, *Kamath et al* teach the method as is claimed in claim 1, wherein simultaneously with said step of receiving network signal data (II) a metadata reception step (XIII) of receiving metadata is performed, and said method further including a metadata output step (XIV) of outputting said metadata in a for humans perceptible form [col.11 line 18-col.12 line 21, col.13 lines 28-33].

n. **Claim 25** is substantially similar to claim 10 and is therefore rejected under the same basis.

o. **Per claim 12**, *Kamath et al* teach the method as is claimed in claim 10, wherein said metadata is displayed on a visual output means [col.3 line 15-col.4 line 64, col.5 lines 39-57].

p. **Claim 27** is substantially similar to claim 12 and is therefore rejected under the same basis.

q. **Per claim 13**, *Kamath et al* teach the method as is claimed in claim 1, wherein said network signal data is obtained from a server computer system (2, 2', 2'') which is communicatively connected to said network input (11) and said method is performed on a client computer system [col.5 line 3-col.6 line 7, col.9 line 58-col.10 line 29, col.30 line 26-39].

r. **Claim 24** is substantially similar to claim 13 and is therefore rejected under the same basis.

s. **Per claim 14**, *Kamath et al* teach the method as is claimed in claim 1, wherein said audio-visual signals are audio signals [col.13 lines 15-20].

t. **Per claim 28, *Kamath et al*** teach a computer program for running on a computer system, characterized in that the computer program contains code portions for performing steps of a method as is claimed in claim 1 when running on a computer system [col.3 lines 13-59, col.5 line 3-col.6 line 27, col.12 lines 28-67, col.14 line 14-col.29 line 30].

u. **Per claim 29, *Kamath et al*** teach a data carrier containing data representing a computer program as is claimed in claim 28 [col.1 line 66-col.2line 29, col.3 lines 13-59, col.5 line 3-col.6 line 27, col.12 lines 28-67, col.14 line 14-col.29 line 30].

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6, 11, 20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kamath et al* (USPN 6,754,696) in view of *Applicant Admitted Prior Art* (US Publication 2002/0122116)—hereafter referred to as, *AAPA*.

a. **Per claim 6, *Kamath et al*** the method of claim 1 as applied above, yet fails to explicitly teach the method, wherein at least one predetermined criterion is based on a parameter related to the costs of said network signal data. However, *AAPA* discloses predetermined criteria based on parameters such as, the type of data being accessed or the network connection, which are related to the cost of acquiring network data [page 1, paragraphs 006-0007].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Kamath et al* and *AAPA* for the purpose of assessing a fee or cost for using the network to attain data—based on the parameters relative to the type of data being attained, the type of connection established with network, the size of the data, and so forth; because it allows for compensation of the network usage which is an obvious feature exercised in the art.

b. **Claims 11, 20 and 26** are substantially similar to claim 6 and are therefore rejected under the same basis.

9. **Claims 5, 7, 19 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kamath et al* (USPN 6,754,696) in view of *Pardikar et al* (USPN 6,757,705).

a. **Per claim 5**, *Kamath et al* the method of claim 4 as applied above, yet fails to explicitly teach the method, wherein said predetermined relation is the ratio of the amount of transmitted local signal data and the amount of transmitted network signal data. However, *Pardikar et al* teach a predetermined relation between the amount of data retrievable via local input and the amount of data retrieved via the network input [Figure 8, col.1 lines 15-27, col.4 lines 35-62, col.5 line 38-col.6 line 5, col.6 line 52-col.7 line 29, col.9 lines 55-65]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Kamath et al* and *Pardikar et al* for the purpose of comparing the relativity of the data acquired from the user's local cache system and from the remote network server, wherein to fulfill the user's request, more or less data may need to be ascertained from the network in relation to the amount of data already locally cached.

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b. **Claims 7 and 21** are substantially similar to claims 4-6 and are therefore rejected under the same basis.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: *Periyannan et al* (USPN 6,587,928), *Pitts et al* (USPN 6,505,241), *Hopmann et al* (USPN 6,578,054) and *Singh et al* (USPN 5,881,229).


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
Art Unit 2141

kds


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